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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

BEVERLY WARREN,

Plaintiff and Appellant,

v.

SAMUEL A. TURNER, JR.,

Defendant and Respondent.

B211628

(Los Angeles County
Super. Ct. No. BP099445)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Reva G. Goetz, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Walter L. Gordon III for Plaintiff and Appellant.

Law Firm of Fox and Fox, Frank O. Fox and Claire S. Fox for Defendant
and Respondent.

SUMMARY

This is an appeal from a judgment quieting title to certain real property pursuant to Probate Code section 850. We affirm.

FACTUAL AND PROCEDURAL SYNOPSIS

In March 2007, Samuel A. Turner, Sr. filed a petition for an order under Probate Code section 850 authorizing and directing transfer of real property claimed to belong to another and to quiet title.¹ In his petition, Samuel alleged as follows: He was the surviving spouse of decedent Sally Mae Turner. Samuel and Sally Mae were married on December 29, 1987. On July 25, 1989, Samuel's son Phineas Turner deeded to Samuel a one-half interest in Phineas's property located at 3038 Virginia Road in Los Angeles.

On October 17, 1989, Samuel further alleged, Samuel and Sally Mae agreed to each transfer a one-half interest in the interests they each held in certain real property to the other as joint tenants. On that date, Samuel transferred his one-half interest in the Virginia Road property to "Sally Mae Turner, a married woman, _____ as JOINT TENANTS." (He attached a copy of the form deed as an exhibit to his petition.) By accident, he said, his name was omitted as grantee.

Sally Mae died on May 11, 2006. After her death, Samuel discovered the clerical error in the grant deed for the Virginia Road property, when the distribution of her estate arose, and was unable to correct the error with the County Recorder's office. Samuel was informed and believed Beverly Warren (Sally Mae's grand niece) claimed an adverse

¹ In April 2007, Samuel's son Phineas A. Turner was appointed Samuel's guardian ad litem due to Samuel's incapacity. (We note the record refers only to Samuel A. Turner *Sr.* although the parties' briefs on appeal identify Samuel A. Turner *Jr.* in the captions.)

interest in the Virginia Road property pursuant to Sally Mae's 2005 will (also attached as an exhibit to the petition).² Samuel sought a judgment that he was the owner of an undivided 50 percent interest in the Virginia Road property with Phineas owning the other 50 percent interest.

Warren filed objections to Samuel's petition, denying the majority of the allegations and asserting the statutes of limitations (Code Civ. Proc., §§ 318 and 338) and the statute of frauds (Civ. Code, § 1624) barred the action.

The parties proceeded to a court trial. Pursuant to a July 1989 deed, the parties stipulated, Phineas and Samuel held title to the Virginia Road property as joint tenants. Over Warren's objection, the trial court admitted a copy of a certified copy of a grant deed dated October 17, 1989, stating as follows: "FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, I SAMUEL A. TURNER, a married man, _____, grant to SALLY MAE TURNER, a married woman, _____ AS JOINT TENANTS," the Virginia Road property.

George Gant, the notary public who prepared and notarized this deed, testified Samuel requested that he "put the property in his name and Sally Mae Turner's name as joint tenants."³ He said the copy of the deed (Ex. P-3) was a true and correct copy of the document he prepared for the Turners. "The request was for a joint tenancy deed and that's what was done."

² In a prior appeal, we affirmed the trial court's order denying Warren's petition for probate of the 2005 will; as a result, Sally Mae's property passed through intestate succession to Samuel as her sole heir. (*Warren v. Turner* (Jan. 26, 2009, B203224) [nonpub. opn.])

³ Gant said he had spoken with Samuel beforehand and recalled they discussed Samuel's work for the railroad. He described the Turners as "kind of portly, both of them," and said he specifically remembered Samuel and Sally Mae, "because they were such pleasant people."

On that same date, he prepared another form deed for Sally Mae, stating: “I, Sally Mae (Hamilton) Turner, a married woman, grant to Samuel A. Turner, a married man, AS JOINT TENANTS,” certain real property Sally Mae held, known as the Victoria Road property. He said the language was “consistent.” He said, in his mind, notaries at that time were “required to just put ‘from the grantor to the grantee as joint tenants’ without repeating the name of the grantor the second time.” His conversation with Sally Mae and Samuel Turner at that time was that “they were exchanging joint tenancies in their properties.” If his office had prepared the forms properly, title would have been placed in both Samuel’s and Sally Mae’s names as joint tenants.⁴

The trial court issued a tentative decision finding in Samuel’s favor. Warren filed objections, Samuel responded, and the trial court’s tentative findings were incorporated into its final statement of decision. The trial court noted the intent of the parties was to hold the property as joint tenants (which would result in the surviving joint tenant – in this case, Samuel – holding title to the property), or, alternatively, if the deed was void for failure to name a second joint tenant, Samuel, as original holder of the property would hold title. Accordingly, the trial court entered judgment pursuant to its tentative decision.

Warren appeals.

DISCUSSION

Warren first argues the trial court committed reversible error in admitting the copy of a certified copy of the grant deed at issue in this case. We disagree.

In response to Warren’s objections, Samuel’s counsel argued that both parties had relied on the copy throughout the case, Warren had similarly relied on a copy of a certified copy of another deed and the trial court had the original in the court file in the related case. Warren has failed to demonstrate prejudicial error. (Evid. Code, §§ 1401, 1521.)

⁴ Samuel’s sister Mildred Jenkins also testified her brother wanted to add Sally Mae to the title to the Virginia Road property.

Warren also argues the action was barred by the statute of frauds and statutes of limitations. As the trial court found, however, neither the statute of frauds nor the statutes of limitations barred the petition because the deed itself stated that Samuel’s interest in the Virginia Road property passed to Sally Mae—an individual—but further specified “AS JOINT TENANTS.” Because parol evidence is admissible to explain the terms of a deed, Gant’s testimony supported the trial court’s conclusion that the effect of this language was to convey title to both Samuel and Sally Mae as joint tenants.⁵ (See *Tasker v. Nieto* (1930) 108 Cal.App. 135, 142 [grantee’s name need not appear in the granting clause if it appears elsewhere and is clearly intended to designate the grantee as grantee].)

Finally, Warren’s argument that the trial court committed reversible error in refusing to admit evidence of inequity is misplaced. The fact that the Victoria Road property Sally Mae transferred to Samuel “AS JOINT TENANTS” passed to Samuel upon Sally Mae’s death simply demonstrates the effect of joint tenancy (and supports the finding that Samuel and Sally Mae “exchang[ed] joint tenancies in their properties” in light of the parallel language in the two deeds executed on the same date before Gant).

DISPOSITION

The judgment is affirmed. Samuel is entitled to his costs of appeal.

WOODS, J.

We concur:

PERLUSS, P. J.

ZELON, J.

⁵ Because Samuel previously held the property in joint tenancy with his son Phineas, that joint tenancy was broken, leaving a tenancy in common.